

§ 185.3

have authority to acknowledge the service and take further action thereon; and

(2) Who otherwise perform the functions prescribed by part 9 in legal proceedings concerning the FAA with respect to testimony by FAA employees and production of FAA records in legal proceedings.

(b) For purposes of this part, “legal proceedings” includes any proceeding before a court of law, administrative board or commission, hearing officer, or other body conducting a legal or administrative proceeding.

§ 185.3 Acceptance of service on behalf of the Secretary of Transportation or the Administrator.

Legal process or pleadings in any legal proceeding concerning the FAA may be served, at the option of the server, on the Chief Counsel, Deputy Chief Counsel, Assistant Chief Counsel, Litigation Division, of the FAA, or any other FAA official designated by the Chief Counsel, with the same effect as if served upon the Secretary of Transportation or the Administrator. The official accepting the service under this section acknowledges the service and takes further action as appropriate.

§ 185.5 Testimony by employees and production of records in legal proceedings.

The Chief Counsel, and each Assistant Chief Counsel, each Regional Counsel, the Aeronautical Center Counsel, and the Technical Center Counsel, with respect to matters arising within their respective jurisdictions, and any other FAA official designated by the Chief Counsel, perform the functions in legal proceedings (other than one described in § 185.3 of this part) as prescribed by part 9 of the regulations of the Office of the Secretary of Transportation, with respect to testimony by FAA employees and production of FAA records in legal proceedings.

[Doc. No. 9900, 34 FR 16622, Oct. 17, 1969, as amended by Amdt. 185-1, 54 FR 39296, Sept. 25, 1989; Amdt. 185-3, 62 FR 46866, Sept. 4, 1997]

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PART 187—FEES

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AUTHORITY: 31 U.S.C. 9701; 49 U.S.C. 106(g), 49 U.S.C. 106(1)(6), 40104-40105, 40109, 40113-40114, 44702.

SOURCE: Docket No. 8347, 32 FR 12051, Aug. 22, 1967, unless otherwise noted.

§ 187.1 Scope.

This part prescribes fees only for FAA services for which fees are not prescribed in other parts of this chapter or in 49 CFR part 7. The fees for services furnished in connection with making information available to the public are prescribed exclusively in 49 CFR part 7. Appendix A to this part prescribes the methodology for computation of fees for certification services performed outside the United States. Appendix A to this part prescribes the methodology for computation of fees for certification services performed outside the United States. Appendix B to this part prescribes the fees for certain aircraft flights that transit U.S.-controlled airspace.

[Doc. No. 8347, 32 FR 12051, Aug. 22, 1967, as amended by Amdt. 187-7, 62 FR 13503, Mar. 20, 1997; Amdt. 187-7, 63 FR 40000, July 24, 1998; Amdt. 187-11, 65 FR 36008, June 6, 2000; Amdt. 187-12, 66 FR 43717, Aug. 20, 2001]

§ 187.5 Duplicates of licenses.

The fee for furnishing to a person entitled thereto a replacement, duplicate, or facsimile of a certificate or other document evidencing a license, for which a fee is not specifically provided elsewhere in this chapter, is \$2.

§ 187.7 Copies; seal.

The fees for furnishing photostatic or similar copies of documents and for affixation of the seal for a certification or validation are the same as those provided in subpart H of 49 CFR part 7.

§ 187.15 Payment of fees.

(a) The fees of this part are payable to the Federal Aviation Administration by check, money order, wire transfers, draft, payable in U.S. currency and drawn on a U.S. bank, or by credit card payable in U.S. currency, prior to the provision of any service under this part.

(b) Applicants for the FAA services provided under this part shall pay any bank processing charges on fees collected under this part, when such charges are assessed on U.S. Government.

(c) Applicants for the FAA services described in Appendix A of this part shall pay bank processing charges, when such charges are assessed by banks on U.S. Government deposits.

(d) The fees described in appendix B of this part are payable to the Federal Aviation Administration in U.S. currency. Remittance of fees of \$1,000 or more are to be paid by electronic funds transfer. Remittance of amounts less than \$1,000 may be paid by electronic funds transfer, check, money order, credit card, or draft.

[Doc. No. 27809, 60 FR 19631, Apr. 19, 1995, as amended by Amdt. 187-7, 62 FR 13503, Mar. 20, 1997; Amdt. 187-7, 62 FR 23295, Apr. 29, 1997; Amdt. 187-10, 62 FR 55703, Oct. 27, 1997; Amdt. 187-7, 63 FR 40000, July 24, 1998; Amdt. 187-11, 65 FR 36008, June 6, 2000; Amdt. 187-12, 66 FR 43718, Aug. 20, 2001; Amdt. 187-4, 72 FR 18559, Apr. 12, 2007]

§ 187.17 Failure by applicant to pay prescribed fees.

If an applicant fails to pay fees agreed to under appendix C of this part, the FAA may suspend or deny any application for service and may suspend or revoke any production certification-related approval granted.

[Doc. No. 28967, 62 FR 55703, Oct. 27, 1997]

APPENDIX A TO PART 187—METHODOLOGY FOR COMPUTATION OF FEES FOR CERTIFICATION SERVICES PERFORMED OUTSIDE THE UNITED STATES

(a) Fixed fees and hourly rates have been derived using the methodology described below to ensure full cost recovery for certification actions or approvals provided by the FAA for persons outside the United States.

(b) These rates are based on aviation safety inspector time rather than calculating a separate rate for managerial or clerical time because the inspector is the individual performing the actual service. Charging for inspector time, while building in all costs into the rate base, provides for efficient cost recovery and time management.

(c) The hourly billing rate has been determined by using the annual operations budget of the Flight Standards Service. The budget is comprised of the following:

(1) Personnel compensation and benefits, budget code series 1100 (excluding codes 1151 and 1152—overtime, Sunday and holiday pay), 1200, and 1300.

(2) Travel and transportation of persons, budget code series 2100 (excluding code 2100—site visit travel).

(3) Transportation of things, budget code series 2200.

(4) Rental, communications, utilities, budget code series 2300.

(5) Printing and reproduction, budget code series 2400.

(6) Contractual services, budget code series 2500.

(7) Supplies and materials, budget code series 2600.

(8) Equipment, budget code series 3100.

(9) Lands and structures, budget code series 3200.

(10) Insurance claims and indemnities, budget code series 4200.

(d) In order to recover overhead costs attributable to the budget, all costs other than direct inspector transportation and subsistence, overtime, and Sunday/holiday costs, are assigned to the number of inspector positions. An hourly cost per inspector is developed by dividing the annual Flight Standards Operations Budget, excluding the items enumerated above, by the number of aviation safety inspections (OMB position series 1825) on board at the beginning of the fiscal year, to determine the annual cost of an aviation safety inspector. This annual cost of an aviation safety inspector is divided by 2,087 hours, which is the annual paid hours of a U.S. Federal Government employee. This result in the hourly government paid cost of an aviation safety inspector.

(e) To ensure that the hourly inspector cost represents a billing rate that ensures full recovery of costs, the hourly cost per inspector must be multiplied by an indirect

work factor to determine the hourly inspector billing rate. This is necessary for the following reasons:

(1) Inspectors spend a significant amount of time in indirect work to support their inspection activities, much of which cannot be allocated to any one client.

(2) Not all 2,087 annual paid hours are available as work hours because training, providing technical assistance, leave, and

other indirect work activities reduce the work time that may be directly billed. Consequently, the hourly cost per inspector must be adjusted upwards by an indirect work factor. The calculation of an indirect work factor is discussed in paragraph (f) of this appendix.

(f)(1) The indirect work factor is determined using the following formula:

$$\left(1 + \sum_{i=1}^k a_i\right)(1 + b) = \text{indirect work factor}$$

where:

a=indirect work rate, and

b=leave usage (total leave hours divided by total hours available for work).

(2) The components of the formula are derived as follows:

(i) *a=indirect work rate.* Indirect work rate is taken from the Flight Standards Staffing Standard Order and is used to project the amount of time an aviation safety inspector spends in indirect activities, as opposed to certification and surveillance work. The indirect work activities are:

(A) Development of master minimum equipment lists on Flight Operations Evaluation Board.

(B) Development of aircraft training documents on Flight Standardization Board.

(C) Development of Maintenance program documents on Maintenance Review Board.

(D) Providing technical assistance.

(E) Assisting legal counsel.

(F) Evaluation of technical documents.

(G) Leave (all types).

(H) Training.

(I) Administrative time.

(J) Travel for indirect work.

(ii) *b=leave usage (total leave hours divided by total hours available for work).* This is computed by using OMB guidelines of 280 average annual leave hours and 1,800 average annual hours available for work for computer manpower requirements.

(g) The hourly inspector cost, when multiplied by the indirect work factor, yields the hourly inspector billing rate and ensures full cost recovery by incorporating the total amount of FAA paid hours needed to produce one hour of direct billable inspector time.

(h) Certifications and approvals for which there are fixed times, such as airman tests, are determined by multiplying the time used in the Flight Standards Staffing Standard or airman test guidelines by the inspector hourly billing rate.

(i) Certifications and approvals for which there are no fixed work rates, such as airman

and repair station facilities (air agencies), are billed at the hourly inspector billing rate.

(j) Actual transportation and subsistence expenses incurred in certification or approval actions will be billed in addition to the hourly inspector billing rate, where such expenses are incurred.

(k) In no event will the fees exceed the actual costs of providing certification or approval services.

(l) The methodology for computing user fees is published in this Appendix. The User fee schedule is published in an FAA Advisory Circular entitled "Flight Standards Service Schedule of Charges Outside the United States." A copy of this publication may be obtained from: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

(m) Fees will be reviewed every year, at the beginning of the fiscal year, and adjusted either upward or downward in order to reflect the current costs of performing tests, authorizations, certifications, permits, or ratings.

(n) Notice of each change to a fee for a service described in the user fee schedule will be published in the "Notices" section of the FEDERAL REGISTER.

[Amdt. 187–5, 60 FR 19631, Apr. 19, 1995]

APPENDIX B TO PART 187—FEES FOR FAA SERVICES FOR CERTAIN FLIGHTS

(a) *Applicability.* Except as provided in paragraphs (b) and (c) of this appendix, this appendix applies to any person who conducts a flight through U.S.-controlled airspace that does not include a landing or takeoff in the United States. U.S.-controlled airspace is defined as all U.S. airspace either directly owned by the United States or allocated to the United States by the International Civil Aviation Organization (ICAO) or by other countries. This is further defined, for this

section only, as Enroute and Oceanic airspace. Enroute airspace is defined, for this section only, as airspace where primarily radar-based air traffic services are provided. Oceanic airspace is defined, for this section only, as airspace where primarily procedural air traffic services are provided.

(b) *Governmental flights.* This appendix does not apply to any military or civilian flight operated by the United States Government or by any foreign government.

(c) *Canada-to-Canada flights.* This appendix will not apply to any operator of a flight that takes off and lands in Canada, without an intermediate stop outside Canada, that operates in U.S.-controlled airspace.

(d) *Services.* Persons covered by paragraph (a) of this appendix must pay a fee for the FAA's rendering or providing certain services, including but not limited to the following:

- (1) Air traffic management.
- (2) Communications.
- (3) Navigation.
- (4) Radar surveillance, including separation services.
- (5) Flight information services.
- (6) Procedural control.
- (7) Emergency services and training.

(e) *Methodology for the computation of fees.* (1) For the services listed in paragraph (d) of this appendix, the fee is computed based on the distance flown in either enroute or oceanic airspace (U.S.-controlled airspace.) Distance flown is based on the great circle distance (GCD) for the point of entry and the point of exit of U.S.-controlled airspace based on FAA flight data. Fees are assessed using the methodology presented in paragraph (e)(2) of this appendix. Where actual entry and exit points are not available, the best available FAA flight data will be used to calculate the entry and exit points.

(2) A User (operator of an Overflight) is assessed a fee for each 100 nautical miles (or portion thereof) flown in each segment and type of U.S.-controlled airspace. Separate calculations are made for transiting Enroute and Oceanic airspace. The total fee charged for an Overflight between any entry and exit point is equal to the sum of these two charges. This relationship is summarized as:

$$R_{ij} = X \cdot DE_{ij} + Y \cdot DO_{ij},$$

Where:

R_{ij} = the fee charged to aircraft flying between entry point i and exit point j,

DE_{ij} = total great circle distance traveled in each segment of U.S.-controlled Enroute airspace expressed in hundreds of nautical miles for aircraft flying between entry point i and exit point j for each segment of Enroute airspace.

DO_{ij} = total great circle distance traveled in each segment of U.S.-controlled Oceanic airspace expressed in hundreds of nautical miles for aircraft flying between

entry point i and exit point j for each segment of Oceanic airspace.

X and Y = the values respectively set forth in the following schedule:

Time period	X (enroute)	Y (oceanic)
Through September 30, 2011	\$33.72	\$15.94
October 1, 2011 through September 30, 2012	38.44	17.22
October 1, 2012 through September 30, 2013	43.82	18.60
October 1, 2013 through September 30, 2014	49.95	20.09
October 1, 2014 and beyond	56.86	21.63

(f) *Billing and payment procedures*—(1) *Billing.* The FAA will send an invoice to each user that is covered by this appendix when fees are owed to the FAA. If the FAA cannot identify the user, then an invoice will be sent to the registered owner. No invoice will be sent unless the monthly (based on Greenwich Mean Time) fees for service equal or exceed \$250. Users will be billed at the address of record in the country where the aircraft is registered, unless a billing address is otherwise provided.

(2) *Payment.* Payment must be made by one of the methods described in § 187.15(d).

(g) *Review of rule.* The rule prescribed in this appendix will be reviewed at least once every 2 years and adjusted to reflect the current costs of the services covered by this appendix.

[Amdt. 187-12, 66 FR 43718, Aug. 20, 2001, as amended by Amdt. 187-35, 76 FR 43118, July 20, 2011]

APPENDIX C TO PART 187—FEES FOR PRODUCTION CERTIFICATION-RELATED SERVICES PERFORMED OUTSIDE THE UNITED STATES

(a) *Purpose.* This appendix describes the methodology for the calculation of fees for production certification-related services outside the United States that are performed by the FAA.

(b) *Applicability.* This appendix applies to production approval holders who elect to use manufacturing facilities or supplier facilities located outside the United States to manufacture or assemble aeronautical products after September 30, 1997.

(c) *Definitions.* For the purpose of this appendix, the following definitions apply:

Manufacturing facility means a place where production of a complete aircraft, aircraft engine, propeller, part, component, or appliance is performed.

Production certification-related service means a service associated with initial production

approval holder qualification; ongoing production approval holder and supplier surveillance; designee management; initial production approval holder qualification and ongoing surveillance for production certificate extensions outside the United States; conformity inspections; and witnessing of tests.

Supplier facility means a place where production of a part, component, or subassembly is performed for a production approval holder.

Production approval holder means a person who holds an FAA approval for production under type certificate only, an FAA approval for production under an approved production inspection system, a production certificate, a technical standard order authorization, or a parts manufacturer approval.

(d) *Procedural requirements.* (1) Applicants may apply for FAA production certification-related services provided outside the United States by a letter of application to the FAA detailing when and where the particular services are required.

(2) The FAA will notify the applicant in writing of the estimated cost and schedule to provide the services.

(3) The applicant will review the estimated costs and schedule of services. If the applicant agrees with the estimated costs and schedule of services, the applicant will propose to the FAA that the services be provided. If the FAA agrees and can provide the services requested, a written agreement will be executed between the applicant and the FAA.

(4) The applicant must provide advance payment for each 12-month period of agreed FAA service unless a shorter period is agreed to between the Production Approval Holder and FAA.

(e) *Fee determination.* (1) Fees for FAA production certification-related services will consist of: personnel compensation and benefit (PC&B) for each participating FAA employee, actual travel and transportation expenses incurred in providing the service, other agency costs and an overhead percentage.

(2) Fees will be determined on a case-by-case basis according to the following general formula:

$$W_1H_1 + W_2H_2 \text{ etc.,} + T + O$$

Where:

W_1H_1 =hourly PC&B rate for employee 1, times estimated hours

W_2H_2 =hourly PC&B rate for employee 2, etc., times estimated hours

T=estimated travel and transportation expenses

O=other agency costs related to each activity including overhead.

(3) In no event will the applicant be charged more than the actual FAA costs of

providing production certification-related services.

(4) If the actual FAA costs vary from the estimated fees by more than 10 percent, written notice by the FAA will be given to the applicant as soon as possible.

(5) If FAA costs exceed the estimated fees, the applicant will be required to pay the difference prior to receiving further services. If the estimated fees exceed the FAA costs, the applicant may elect to apply the balance to future agreements or to receive a refund.

(f) Fees will be reviewed by the FAA periodically and adjusted either upward or downward in order to reflect the current costs of performing production certification-related services outside the United States.

(1) Notice of any change to the elements of the fee formula in this Appendix will be published in the FEDERAL REGISTER.

(2) Notice of any change to the methodology in this Appendix and other changes for the fees will be published in the FEDERAL REGISTER.

[Doc. No. 28967, 62 FR 55703, Oct. 27, 1997]

PART 189—USE OF FEDERAL AVIATION ADMINISTRATION COMMUNICATIONS SYSTEM

Sec.

189.1 Scope.

189.3 Kinds of messages accepted or relayed.

189.5 Limitation of liability.

AUTHORITY: 31 U.S.C. 9701; 49 U.S.C. 106(g), 40104, 40113, 44502, 45303.

SOURCE: Docket No. 27778, 60 FR 39615, Aug. 2, 1995, unless otherwise noted.

§ 189.1 Scope.

This part describes the kinds of messages that may be transmitted or relayed by FAA Flight Service Stations.

§ 189.3 Kinds of messages accepted or relayed.

(a) Flight Service Stations may accept for transmission over FAA communication systems any messages concerning international or overseas aircraft operations described in paragraphs (a) (1) through (6) of this section. In addition, Flight Service Stations may relay any message described in this section that was originally accepted for transmission at an FAA Flight Service Station outside the 48 contiguous States, or was received from a foreign station of the Aeronautical Fixed Telecommunications Network that, in normal routing,